

Remarks

The Final Office Action dated October 18, 2002 has been carefully reviewed and the foregoing amendments are made in response thereto. These amendments are responsive to new rejections and arguments presented in the Final Rejection. In view of these amendments and the following remarks, Applicants respectfully request reconsideration and reexamination of this application and the timely allowance of the pending claims.

Applicants respectfully submit that no new prohibited matter has been introduced by the amendments. Written description support for the amended claims can be found throughout the specification and in the original claims. Specific support for claim 15 can be found as listed in the table below.

Claim	Support as Found in the as-filed Application
15	page 3, lines 26-27, initial claims 3 and 4

Summary of the Final Office Action

1. Claims 15-16 and 21-34 were rejected 35 U.S.C. § 103(a) as being unpatentable over Dubreil *et al.* Specifically, the Office Action indicated that it would have been obvious to one of ordinary skill in the art to modify the method of Dubreil *et al.* to add puroindolines to biscuit products as opposed to adding puroindolines to wheat flour used in breadmaking.

2. Claims 31-34 were rejected under 35 U.S.C. § 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to make and/or use the invention.

3. Claims 31-34 were rejected under 37 U.S.C. § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter regarded as the invention.

Rejections under 35 U.S.C. § 103(a)

Claims 15-16 and 21-34 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Dubreil *et al.* Applicants respectfully disagree with the grounds for the rejection.

The Office Action stated that Dubreil *et al.* teach that low amounts of puroindolines can induce important changes in the structure of grain crumb and bread volumes. The Examiner further stated that while Dubreil *et al.* is directed to bread, both bread and biscuits are baked products, and many ingredients such as flour, salt, sugar, shortening, and milk are found both in bread and biscuits.

The present invention claims the use of puroindolines in the manufacture of biscuits. The dough used in biscuit manufacturing is far more complex than bread dough, as biscuit dough comprises many other ingredients that provide additional proteins, carbohydrates and lipids. The bread which was used in

the experiments in Dubreil *et al.* contained only flour, salt, water, and yeast (see page 224, "Baking test"), and, contrary to the Examiner's statement, it did not contain any sugar, milk, or shortening. Therefore, Dubreil *et al.* would not have been able to predict the effect of puroindolines on biscuit dough as there are a number of ingredients present in biscuit dough that effect the final texture and structure which are not present in bread dough.

Furthermore, Dubreil *et al.* teaches away from the present invention by teaching that there is an inverse relationship between bread hardness and puroindoline content. One of ordinary skill in the art would have anticipated that as the amount of puroindolines was increased, the firmness of the biscuits would have decreased based on the teachings of Dubreil *et al.* Instead, in the present invention, the addition of puroindolines always increased the firmness of the biscuits. While one might have been motivated to use puroindolines as an additive in biscuit products, one of ordinary skill in the art would not have known what to expect from the addition of puroindolines to biscuit dough. In particular, one of ordinary skill in the art would not have been able to ascertain an amount of puroindoline that would be effective for increasing the firmness of a resultant biscuit. Therefore, Applicants respectfully request that the rejections of claims 15-30 based on 35 U.S.C. § 103(a) be withdrawn for the reasons stated in the aforementioned remarks.

Rejections under 35 U.S.C. § 112, first paragraph

Claims 31-34 were rejected under 37 U.S.C. § 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to make and/or use the invention. Claims 31-34 have been canceled, therefore the rejection is moot. Applicants respectfully request that the rejections based on 35 U.S.C. § 112, first paragraph be withdrawn.

Rejections under 35 U.S.C. § 112, second paragraph

Claims 31-34 were rejected under 37 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter regarded as the invention. Claims 31-34 have been canceled, therefore the rejection is moot. Applicants respectfully request that the rejections based on 35 U.S.C. § 112, second paragraph be withdrawn.

Conclusion

The foregoing amendments and remarks are being made to place the application in condition for allowance. Applicants respectfully request entry of the amendments, reconsideration, and the timely allowance of the pending claims. A favorable action is awaited. Should the Examiner find that an

interview would be helpful to further prosecution of this application, they are invited to telephone the undersigned at their convenience.

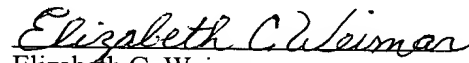
Attached hereto is a marked-up version of the changes made to the specification and claims by the current amendment. The attached page is captioned "Version with markings to show changes made" as required.

Except for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§ 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account 50-0310.

This paragraph is intended to be a **Constructive Petition for Extension of Time** in accordance with 37 C.F.R. 1.136(a)(3).

Respectfully submitted,
Morgan, Lewis & Bockius LLP

Date: **April 17, 2003**
Morgan, Lewis & Bockius LLP
Customer No. **009629**
1111 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
Tel: 202-739-3000
Fax: 202-739-3001


Elizabeth C. Weimar
Registration No. 44,478

VERSION WITH MARKINGS TO SHOW CHANGES MADE

In the claims:

Claims 15 and 21-24 have been amended to read as follows:

15. (twice amended) A method of making biscuit **from a dough comprising flour, and additional ingredients providing proteins, carbohydrates, and lipids** [dough], wherein the improvement comprises admixing **the biscuit flour or the biscuit dough** with at least one puroindoline;

wherein the at least one puroindoline is added in an amount effective for increasing the firmness of the biscuit resulting from baking the biscuit dough.

21. (twice amended) The method of claim **15** [34] wherein the amount of puroindoline is effective to reduce the density of a hard biscuit prepared from a biscuit dough with a fat content of between 2 and 20% of the total weight of the biscuit dough.

22. (twice amended) The method of claim **15** [34] wherein the amount of puroindoline is effective to reduce the density of a soft biscuit prepared from a biscuit dough with a fat content of between 2 and 30% of the total weight of the dough.

23. (twice amended) The method of claim **15** [34] wherein the amount of puroindoline is effective to reduce the density of a puff biscuit prepared from a biscuit dough with a fat content less than or equal to 4% of the total weight of the biscuit dough.

24. (twice amended) The method of claim **15** [32] wherein the amount of puroindoline is effective to increase the density of a puff biscuit prepared from a biscuit dough without added emulsifier and which biscuit dough has a fat content greater than or equal to 7% of the total weight of the biscuit dough.